

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

QUINTIN L. WILSON,

Plaintiff,

-v-

3:23-CV-263

SGT. DANIEL FLANDERS *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

QUINTIN L. WILSON

Plaintiff, Pro Se

225323

Broome County Correctional Facility

P.O. Box 2047

Binghamton, NY 13902

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On February 28, 2023, *pro se* plaintiff Quintin L. Wilson (“plaintiff”) filed this action alleging that certain named defendants violated his civil rights in connection with an incident that occurred at his home on June 1, 2021. Dkt. No. 1. Although this action was initially closed due to plaintiff’s failure to pay the filing fee, Dkt. No. 3, he later moved for leave to proceed *in forma*

pauperis (“IFP Application”), Dkt. Nos. 4, 6, 7, and the Clerk reopened the case and restored it to the active docket, Dkt. No. 8.

On May 4, 2023, U.S. Magistrate Judge Thérèse Wiley Dancks granted plaintiff’s IFP Application for the purpose of initial review and advised by Report & Recommendation (“R&R”) that plaintiff’s complaint be dismissed with partial leave to replead. Dkt. No. 10. As Judge Dancks explained, it might be possible for plaintiff to state a claim against defendants Grace and/or Flanders. *Id.* However, amendment would be futile as to any claims against Judge Dooley, Judge Cawley, or Alexander Czebiniak, because those defendants were entitled to absolute judicial or prosecutorial immunity. *Id.*

On May 17, 2023, this Court adopted Judge Dancks’s R&R over plaintiff’s objections. Dkt. No. 12. In the Order adopting the R&R, the Court advised plaintiff that he was being given an opportunity to try to replead certain of his claims, including any claim or claims against defendant Flanders that he identified in his objections to the R&R, by filing an amended pleading in accordance with the instructions set forth in Judge Dancks’s R&R. *Id.* But plaintiff was warned that he may not replead his claims against Judge Dooley, Judge Cawley, and/or Alexander Czebiniak. *Id.*

Thereafter, plaintiff filed an amended complaint in which he reasserted certain claims against defendants Flanders and Grace. Dkt. No. 13. On July 6, 2023, Judge Dancks advised by R&R that all of plaintiff’s claims against

defendant Grace, an attorney who represented plaintiff during state court criminal proceedings, be dismissed *without* further leave to amend. *Id.* But Judge Dancks recommended that plaintiff's § 1983 excessive force, search and seizure, false arrest, and false imprisonment claims against defendant Flanders be dismissed *with* leave to amend. *Id.*

Plaintiff has not filed objections, and the time period in which to do so has expired. Accordingly, the R&R is accepted and will be adopted in all respects. *See* 28 U.S.C. § 636(b)(1)(C).

Therefore, it is

ORDERED that

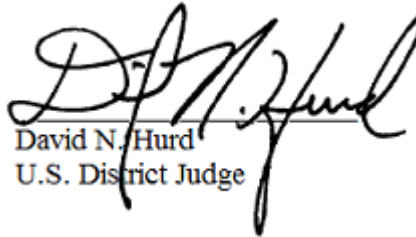
1. The Report & Recommendation is ACCEPTED;
2. Plaintiff's claims against defendant Grace are DISMISSED without leave to further amend;
3. Plaintiff's claims for excessive force, search and seizure, false arrest, and false imprisonment against defendant Flanders are DISMISSED with leave to amend;
4. Plaintiff shall have thirty days in which to further amend his pleading in accordance with Judge Dancks's July 6, 2023 R&R;
5. If plaintiff files a second amended complaint within the thirty-day deadline, the pleading shall be returned to Judge Dancks for further review and further action as appropriate;

6. If plaintiff does not file a second amended complaint within the thirty-day deadline, the Clerk is directed to enter a judgment dismissing this action without further order of the Court; and

7. The Clerk of Court is directed to TERMINATE from the docket defendants Dooly, Cawley, Czbeniak, and Grace in accordance with the May 17, 2023 Order dismissing those defendants with prejudice from this action.

IT IS SO ORDERED.

Dated: July 25, 2023
Utica, New York.



David N. Hurd
U.S. District Judge